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12 Attorneys for Plaintiff

13 IN THE UNITED STATES DISTRICT COURT

14 FOR THE NORTHERN DISTRICT OF CALIFORNIA

15 SAN JOSE DIVISION

16 UNITED STATES OF AMERICA, ) No. CR 05-00812 RMW  
17 v. )  
18 Plaintiff, ) **JOINT REQUEST BY THE PARTIES TO**  
19 SUIBIN ZHANG, ) **VACATE THE CURRENT PRETRIAL**  
20 Defendant. ) **CONFERENCE AND TRIAL DATES,**  
21 ) **AND FOR AN ORDER PLACING THIS**  
22 ) **CASE ON CALENDAR FOR FURTHER**  
23 ) **STATUS AND TRIAL SETTING;**  
24 ) **ORDER []**

25 Defendant and the government, through their respective counsel, hereby stipulate, subject  
26 to the Court's approval, that the trial of the above-captioned case be continued from its currently-  
scheduled date, March 1, 2010, to a date in late April or May, depending on the Court's calendar.  
The parties further request that the pretrial conference date of February 4, 2010, along with  
accompanying schedule for pretrial filings, be vacated, and that this case **be placed on the**  
**Court's calendar on January 25, 2010**, for status and trial setting. Finally, the parties agree that  
the time occasioned by this request should be excluded from the Speedy Trial Clock for the  
reasons set forth in more detail below.

1 The reasons for the stipulation are two-fold: first, as directed by the Court, the parties held  
2 a settlement conference with Judge Fogel on January 7, 2010. Immediately afterward, everyone  
3 was in agreement that settlement appeared highly unlikely and that the case should proceed to trial  
4 as scheduled. Recent developments, however, have given new life to those discussions. The  
5 parties would like additional time to see whether a settlement might be able to be reached.  
6 Counsel agree that, in the interest of judicial economy, it would be more appropriate to continue  
7 to attempt to settle this matter before any *in limine* motions are filed.

8        In addition, the parties have met and conferred in an effort to streamline the trial, assuming  
9 the case were to proceed to trial. During those discussions, it has become apparent that the case  
10 could be more efficiently tried if the parties had more time. (One matter under serious discussion,  
11 although neither side has made a firm decision at this point, is the possibility of stipulating to a  
12 bench trial. A second involves a possible defense request to conduct a Rule 15 deposition of a  
13 Marvell executive now living in Europe.)

14 On January 4, 2010, the Court excluded, with the agreement of the parties, the period  
15 between January 4 and March 1, 2010, for purposes of Speedy Trial Act computations pursuant  
16 to Title 18, United States Code, Sections 3161(h)(7)(A) and 3161(h)(7)(B)(i) and (iv). The parties  
17 respectfully ask the Court to reaffirm that time exclusion in its Order below.

18 || Dated: January 12, 2010

21 Dated: January 12, 2010

\_\_\_\_\_/s/\_\_\_\_\_

DAVID CALLAWAY,  
Assistant United States Attorney

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## **ORDER**

2 For the reasons set forth by the parties in the stipulation above, and good cause  
3 appearing,

4 IT IS HEREBY ORDERED as follows:

5 (1) this matter shall be placed on the Court's calendar on **Monday, January 25, 2010,**  
6 **at 9:00 a.m.**, before The Honorable Ronald M. Whyte, United States District Judge, for further  
7 status and trial setting;

8 (2) the Pretrial Conference scheduled for February 4, 2010, is VACATED, with a new  
9 date to be scheduled at the hearing on January 25, 2010. The briefing schedule set forth in this  
10 Court's Minute Order dated January 4, 2010 is accordingly vacated as well;

11 (3) the jury trial currently scheduled to begin on March 1, 2010 is VACATED, with a  
12 new date to be scheduled at the hearing on January 25, 2010.

13 (4) as previously ordered, the period of delay between January 4, 2010 and March 1,  
14 2010, is excluded for purposes of Speedy Trial Act computations pursuant to Title 18, United  
15 States Code, Sections 3161(h)(7)(A) and 3161(h)(7)(B)(i) and (iv), based on the foregoing  
16 reasons and the reasons set forth by the parties in open court on January 4, 2010.

Date: 1/25/10

Ronald M. Whyte  
RONALD M. WHYTE  
United States District Judge